

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JAMES RICHARD,  
Petitioner,  
Vs  
DAVID ROCK, Superintendent,  
Respondent.

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9:08-CV-145

APPEARANCES: OF COUNSEL:

JAMES RICHARD  
Petitioner, Pro Se  
02-A-5540  
Great meadow Correctional Facility  
Box 51  
Comstock, NY 12821

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Attorney General of the  
State of New York  
Attorney for Defendants  
Department of Law  
120 Broadway  
New York, NY 10271

DAVID N. HURD  
United States District Judge

JODI A. DANZIG, ESQ.  
Asst. Attorney General

**ORDER**

Petitioner, James Richard, brought this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. By Report-Recommendation dated January 6, 2009, the Honorable Victor E. Bianchini, United States Magistrate Judge, recommended that the petition in this matter be denied and dismissed; and further, that petitioner's motion requesting a stay be denied. The Magistrate Judge also recommended that a certificate of appealability not issue.

No objections to the Report-Recommendation have been filed; however, the respondent has urged that the report recommendation be adopted.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Bianchini, the Report-Recommendation is accepted and adopted in whole. See 28 U.S.C. 636(b)(1).

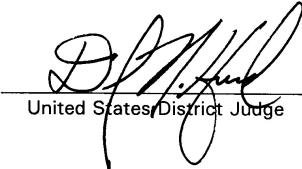
Accordingly, it is

ORDERED that

1. The petition is DENIED;
2. The petition is DISMISSED in all respects;
3. The petitioner's motion requesting a stay is DENIED; and
4. A Certificate of Appealability will not be issued.

The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.



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United States District Judge

Dated: February 10, 2009  
Utica, New York.